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4-16-10. False or misleading advertising with respect to seed quality prohibited.

No person shall use orally or in writing, relative to any agricultural, vegetable, flower, or tree and shrub seed, sold, advertised, exposed or offered for sale in this state for propagation or planting, the term "foundation," "registered," or "certified" seed along with other words, or shall use any other term or form of words which suggests that the seed has been certified or registered by an inspection agency duly authorized by any state, or that there has been registration or certification, or either, or shall use any tags similar to registration or certification tags, unless such seeds have been registered or certified by an officially recognized seed certifying agency approved and accredited in this state.

History: C. 1953, 4-16-10, enacted by L. 1979, ch. 2, § 17.

4-16-11. Distributors of seed to keep record of each lot of seed distributed.

Each person whose name appears on the label of agricultural, vegetable, flower, or tree and shrub seeds shall keep a complete record of each lot of agricultural, vegetable, flower, tree and shrub seed distributed in this state for a period of two years and a file sample of each such lot of seed for a period of one year after final disposition of the lot. All such records and samples pertaining to the distribution of such seeds shall be available to the department for inspection during regular business hours.

History: C. 1953, 4-16-11, enacted by L. 1979, ch. 2, § 17.

4-16-12. Repealed.

Repeals. — Section 4-16-12, as enacted by Laws 1979, ch. 2, § 17, making violations of the chapter class "B" misdemeanors, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 17

UTAH NOXIOUS WEED ACT

Section		Section	
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lished annually in county — Notice to particular property owners to control noxious weeds — Methods of prevention or control specified — Failure to control noxious weeds considered public nuisance.

- 4-17-8. Noxious weeds — Failure to control after notice a nuisance — Notice and hearing — Control at county expense — County costs to control liability of owner — Charges lien against property.

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4-17-8.5. Hearing before county weed control board — Appeal of decision to board of county commissioners — Judicial review.

4-17-9. Repealed.

4-17-10. Jurisdiction of state and local agencies to control weeds.

4-17-11. County noxious weed control fund authorized.

4-17-12. Repealed.

4-17-1. Short title.

This chapter shall be known and may be cited as the "Utah Noxious Weed Act."

History: C. 1953, 4-17-1, enacted by L. 1979, ch. 2, § 18.

Cross-References. — Cities, abatement of weeds in, §§ 10-8-23, 10-11-1 to 10-11-4.

County commissioners may provide for destruction of weeds, § 17-5-28.

COLLATERAL REFERENCES

Am. Jur. 2d. — 3 Am. Jur. 2d Agriculture § 51.

C.J.S. — 3 C.J.S. Agriculture §§ 69 to 73.
Key Numbers. — Agriculture ⇐ 8.

4-17-2. Definitions.

As used in this chapter:

- (1) "Commission" means the board of county commissioners of the several counties of this state;
- (2) "Commissioner" means the commissioner of agriculture or the commissioner's representative;
- (3) "County noxious weed" means any plant which is not on the state noxious weed list, is especially troublesome in a particular county, and is declared by the county commission to be a noxious weed within its county;
- (4) "Noxious weed" means any plant the commissioner determines to be especially injurious to public health, crops, livestock, land, or other property.

History: C. 1953, 4-17-2, enacted by L. 1979, ch. 2, § 18; L. 1985, ch. 18, § 1.

Amendment Notes. — The 1985 amend-

ment added present Subsection (2); and redesignated former Subsections (2) and (3) as Subsections (3) and (4).

4-17-3. Commissioner — Functions, powers, and duties.

The commissioner has the following powers and duties:

- (1) investigates and designates noxious weeds on a statewide basis;
- (2) compiles and publishes annually a list of statewide noxious weeds;
- (3) coordinates and assists in inter-county noxious weed enforcement activities;
- (4) determines whether each county complies with this chapter;

(5) assists a county which fails to carry out the provisions of this chapter in its implementation of a weed control program;

(6) prescribes the form and general substantive content of notices to the public and to individuals concerning the prevention and control of noxious weeds;

(7) compiles and publishes a list of articles capable of disseminating noxious weeds or seeds and designate treatment to prevent dissemination; and

(8) regulates the flow of contaminated articles into the state and between counties to prevent the dissemination of noxious weeds or seeds.

History: C. 1953, 4-17-3, enacted by L. 1979, ch. 2, § 18; L. 1985, ch. 18, § 2.

Amendment Notes. — The 1985 amendment deleted "and may exercise" after "has" and "functions" after "following" in the intro-

ductory language; added Subsections (4) and (5); redesignated former Subsections (4) through (6) as Subsections (6) through (8); and made minor changes in phraseology and punctuation.

4-17-4. County weed control board — Appointment — Composition — Terms — Removal — Compensation.

Each board of county commissioners of the several counties appoints a county weed control board comprised of not less than three nor more than five appointed members and one member of the county commission appointed by the chairman of the board of county commissioners who acts as a coordinator between the commission and the weed board. Two members of the board shall be farmers or ranchers whose primary source of income is derived from production agriculture. Members are appointed to four year terms of office and serve with or without compensation as determined by each commission. Members may be removed by a commission for cause and any vacancy which occurs on a county weed control board shall be filled by appointment of the commission for the unexpired term of the vacated member.

History: C. 1953, 4-17-4, enacted by L. 1979, ch. 2, § 18; L. 1985, ch. 18, § 3.

Amendment Notes. — The 1985 amendment inserted the Subsection (1) designation at

the beginning of the section; added the second sentence; and made minor changes in phraseology.

4-17-4.5. Commissioner may require county weed control board to justify failure to enforce provisions.

If the commissioner determines that the weed control board of any county has failed to perform its duties under this chapter, the commissioner may require the board to justify, in writing, its failure to enforce these provisions within its county.

History: C. 1953, 4-17-4.5, enacted by L. 1985, ch. 18, § 4.

Effective Dates. — Section 11 of Laws 1985, ch. 18 provided: "This act takes effect upon approval by the governor, or the day following

the constitutional time limit of Article VII, Sec. 8 without the governor's signature, or in the case of a veto, the date of veto override." Approved February 27, 1985.

4-17-5. Noxious weeds — County weed control board responsible for control of — County weed control board to cooperate with other county boards — County commission authority to designate — Public hearing before removal of noxious weed from state list.

(1) A county weed control board is responsible, under the general direction of its commission, for the formulation and implementation of a county-wide coordinated noxious weed control program designed to prevent and control noxious weeds within its county.

(2) A county weed control board is required, under the general direction of its commission, to cooperate with other county weed control boards to prevent and control the spread of noxious weeds.

(3) A county commission may declare a particular weed or competitive plant, not appearing on the state noxious weed list, a county noxious weed within its county, or it may petition the commissioner for removal of a particular noxious weed from the state noxious weed list. A noxious weed shall not be removed by petition without a public hearing conducted by the commissioner after due notice.

History: C. 1953, 4-17-5, enacted by L. 1979, ch. 2, § 18; L. 1985, ch. 18, § 5.

Amendment Notes. — The 1985 amendment substituted "A" for "each" in Subsection (1); added Subsection (2); redesignated former Subsection (2) as Subsection (3); divided

present Subsection (3) into two sentences; substituted "A" for "provided, that no" at the beginning of the second sentence of Subsection (3); and substituted "shall not be removed by petition" for "shall be deleted upon such petition" in the last sentence of Subsection (3).

4-17-6. Weed control supervisor — Qualification — Appointment — Duties.

Each commission may employ one or more weed control supervisors qualified to detect and treat noxious weeds and to direct the weed control program for the county weed board. A person may be a weed control supervisor for more than one county weed board. Terms and conditions of employment shall be prescribed by the commission.

It is the duty of every supervisor, under the direction of the local county weed control board, to examine all land under the jurisdiction of the county weed control board to determine whether this chapter and the regulations of the commissioner have been met, to compile data on infested areas, to consult and advise upon matters pertaining to the best and most practical method of noxious weed control and prevention, to render assistance and direction for the most effective control and prevention, to investigate violations of this chapter, to enforce noxious weed controls within the county, and to perform any other duties required by the county weed control board.

History: C. 1953, 4-17-6, enacted by L. 1979, ch. 2, § 18.

4-17-7. Notice of noxious weeds to be published annually in county — Notice to particular property owners to control noxious weeds — Methods of prevention or control specified — Failure to control noxious weeds considered public nuisance.

(1) Each county weed control board before May 1 of each year shall post a general notice of the noxious weeds within the county in at least three public places within the county and publish the same notice on at least three occasions in a newspaper or other publication of general circulation within the county.

(2) If the county weed control board determines that particular property within the county requires prompt and definite attention to prevent or control noxious weeds, it shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action should be taken on the property. Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock.

(3) An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

History: C. 1953, 4-17-7, enacted by L. 1979, ch. 2, § 18; L. 1985, ch. 18, § 6.

Amendment Notes. — The 1985 amendment substituted "shall post" for "shall cause" in Subsection (1); deleted "to be posted" before "in at least" in Subsection (1); substituted "publish the same notice" for "to be published"

in Subsection (1); substituted "serve the owner or the person in possession of the property, personally or by certified mail, a notice" for "cause notice" in Subsection (2); deleted "to be personally served upon the owner or the person in possession of the property" at the end of Subsection (2); and added Subsection (3).

4-17-8. Noxious weeds — Failure to control after notice a nuisance — Notice and hearing — Control at county expense — County costs to control liability of owner — Charges lien against property.

(1) If the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance, the county may, after reasonable notification, enter the property, without the consent of the owner or the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.

(2) Any expense incurred by the county in controlling the noxious weeds is paid by the property owner of record or the person in possession of the property, as the case may be, within 90 days after receipt of the charges incurred by the county. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the county treasurer at the time general property taxes are collected.

History: C. 1953, 4-17-8, enacted by L. 1979, ch. 2, § 18; L. 1985, ch. 18, § 7.

Amendment Notes. — The 1985 amendment deleted the first three sentences of the section which formerly read as set out in the parent volume; designated the remainder of the section as Subsection (2); added a new Sub-

section (1); and made minor changes in phraseology.

Cross-References. — Abatement of nuisances, §§ 76-10-806, 78-38-1.

Criminal penalties for maintaining public nuisance, § 76-10-804.

COLLATERAL REFERENCES

Am. Jur. 2d. — 3 Am. Jur. 2d Agriculture §§ 49 to 51.

4-17-8.5. Hearing before county weed control board — Appeal of decision to board of county commissioners — Judicial review.

(1) Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the county weed control board within 10 days of receipt of such notice and may appeal the decision of the county weed control board to the board of county commissioners.

(2) Any person served with notice to control noxious weeds who has had a hearing before both the county weed control board and the board of county commissioners may further appeal the decision of the board of county commissioners by filing written notice of appeal with a court of competent jurisdiction.

History: C. 1953, 4-17-8.5, enacted by L. 1985, ch. 18, § 8.

4-17-9. Repealed.

Repeals. — Section 4-17-9, as enacted by Laws 1979, ch. 2, § 18, relating to enforcement

of the chapter, was repealed by Laws 1985, ch. 18, § 10.

4-17-10. Jurisdiction of state and local agencies to control weeds.

The departments or agencies of state and local governments shall develop, implement, and pursue an effective program for the control and containment of noxious weeds on all lands under their control or jurisdiction, including highways, roadways, rights-of-way, easements, game management areas, and state parks and recreation areas.

History: C. 1953, 4-17-10, enacted by L. 1985, ch. 18, § 9.

Repeals and Reenactments. — Laws 1985, ch. 18, § 9 repealed former § 4-17-10, as en-

acted by Laws 1979, ch. 2, § 18, relating to state's responsibility for weeds on state-owned land, and enacted the present section.

4-17-11. County noxious weed control fund authorized.

Authority is hereby granted commissions to establish and maintain a noxious weed control fund in each county for use in the administration of this chapter.

History: C. 1953, 4-17-11, enacted by L. 1979, ch. 2, § 18.

4-17-12. Repealed.

Repeals. — Section 4-17-12, as enacted by Laws 1979, ch. 2, § 18, making violations of the chapter class "C" misdemeanors, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 18**SOIL CONSERVATION DISTRICTS ACT****Section**

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- 4-18-4. Soil Conservation Commission created — Appointment — Composition — Terms — Compensation — Attorney general to provide legal assistance.
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- 4-18-11. Soil conservation districts — Political subdivision — Functions, powers, and duties.
- 4-18-12. Soil conservation districts — Recommendations regarding land use within district authorized — Some recommendations specified.
- 4-18-13. District courts — Jurisdiction to decide cases and controversies involving land use ordinances — County attorney to act as counsel for districts.

4-18-1. Short title.

This chapter shall be known and may be cited as the "Soil Conservation Districts Act."

History: C. 1953, 4-18-1, enacted by L. 1979, ch. 2, § 19.